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IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

BETSY SMITH,

Plaintiff,

vs.

TRENTON HATTLER;
KIRK FLOWERS;
AFFORDABLE POOL SOLUTIONS, LLC,

Defendants.

FILED IN DISTRICT COURT
OKLAHOMA COUNTY

JAN 21 2021

RICK WARREN
COURT CLERK

Case No.:

111

CJ-2021-282

PETITION

COMES NOW the Plaintiff, Betsy Smith, individually and for her cause(s) of action against the above-named Defendants, hereby states and alleges as follows:

I. PARTIES, JURISDICTION, AND VENUE

1. Plaintiff, Betsy Smith, is and at all times pertinent hereto a resident of Moore, Oklahoma, located in the County of Cleveland County, State of Oklahoma.
2. Defendant Affordable Pool Solutions, LLC (hereafter referred to as "Affordable Pools") is a Limited Liability Company organized under the laws of the State of Oklahoma and registered with the Oklahoma Secretary of State to conduct business in the State of Oklahoma.
3. Defendant Kirk Flowers is and at all times pertinent hereto a resident of Moore, Oklahoma, located in the County of Cleveland County, State of Oklahoma and was listed on the investigation police report as the owner of the vehicle driven by Defendant Hattler on the date of this motor vehicle wreck. That Defendant Kirk Flowers is also the managing member/director of Defendant Affordable Pools.
4. Defendant, Trenton Hattler is and at all times pertinent hereto a resident of Oklahoma City, Oklahoma, located in the County of Oklahoma County, State of Oklahoma and

EXHIBIT

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who was driving a vehicle owned by Defendant Affordable Pools and/or Defendant Kirk Flowers at the time of this collision that gives rise to this lawsuit, as an employee, agent and/or servant of Defendant Affordable Pools and/or Kirk Flowers.

5. That at all times pertinent to this incident, Defendant Hattler was acting within the course and scope of his employment for Defendant Affordable Pools and/or Kirk Flowers and thus Defendant Affordable Pools and/or Kirk Flowers are vicariously liable under the theory of Respondeat Superior for the acts and omissions of Defendant Hattler.

6. Plaintiff has incurred damages associated with the cost of related medical care and treatment in Oklahoma County and therefore pursuant to Title 12 O.S. §141 venue is proper in Oklahoma County. Further, this lawsuit arises out of a motor vehicle collision that occurred in Oklahoma City, Oklahoma, located in the County of Oklahoma County, State of Oklahoma.

7. This Court has proper jurisdiction and venue.

8. On or about March 26, 2019, Plaintiff, Betsy Smith was driving her car Eastbound on N.W. Expressway in Oklahoma City. At the time of the collision at issue, Plaintiff was stopped behind other vehicles for a red light at the intersection of N.W. Expressway and Lake Hefner Parkway when Defendant Hattler, also traveling Eastbound on N.W. Expressway, negligently failed to bring his vehicle to a stop causing his vehicle to strike the rear of the Plaintiff's vehicle with enough force to cause a chain reaction four car pile-up wreck.

9. That at the time of the incident, Defendant Hattler was driving his vehicle while looking at the maps screen on his cell phone and negligently failed to see that traffic in front of him was stopped. That Defendant Hattler's conduct in looking at his cell phone while driving rather than paying attention to other traffic around him was grossly negligent and reckless and showed a reckless disregard for the safety of others.

10. That as a result of the subject crash, the Plaintiff suffered serious and permanent injuries and damages including but not limited to medical expenses, future medical expenses, wage loss, diminution in future earning capacity, physical and mental pain and suffering, loss of enjoyment of life, etc.

11. That at all times pertinent hereto, Defendant Hattler while acting as an employee, servant, and/or agent of Defendant Affordable Pools and/or Kirk Flowers failed to act as a reasonable and prudent driver and violated applicable traffic, cell phone use and other safety laws and otherwise acted in a grossly negligent and reckless manner in the operation of the vehicle he was driving.

12. That Defendants Affordable Pools and/or Kirk Flowers are vicariously responsible for the negligent acts of agent, servant, and/or employee Hattler under the theory of Respondeat Superior.

13. That as a result of the negligent acts of the Defendants, a severe collision occurred with the vehicle driven by the Plaintiff.

14. That at all times pertinent hereto, Defendants Affordable Pools and/or Kirk Flowers were negligent in failing to have adequate safety policy and procedure in place concerning the safe operation of vehicles driven by agents, servants and/or employees and also negligently failed to take necessary steps to ensure agents, servants and/or employees did not use cell phones while driving vehicles.

15. That Defendants Affordable Pools and/or Kirk Flowers' above stated acts and/or omissions amount to gross negligence and represent a reckless disregard for the safety of other motorists on Oklahoma roads.

16. That Defendants Affordable Pools and/or Kirk Flowers by and through employee,

agent and/or servant Hattler violated state, local and federal laws and regulations in the operation of the vehicle driven by Hattler. These violations caused and/or contributed to the collision which directly and proximately caused the serious and permanent injuries and damages sustained by the Plaintiff.

17. Defendants are negligent per se for the injuries and damages sustained by the Plaintiff because of their violations of applicable local, state and federal statutes, laws and regulations.

18. Under Oklahoma law, Defendants Affordable Pools and/or Kirk Flowers are also directly liable for the negligence of an incompetent driver to whom an automobile was entrusted.

19. Defendants Affordable Pools and/or Kirk Flowers liability arises from the act of entrusting a motor vehicle to Defendant Hattler and said liability is in addition to liability under the doctrine of Respondeat Superior. See, *Sheffer v. Carolina Forge Company, LLC*, 2013 OK 48, §17.

20. Defendants Affordable Pools and/or Kirk Flowers liability for negligent hiring, retention, training and/or failing to properly supervise Defendant Hattler when Defendants knew or should have known that such failure would create an unreasonable risk of danger to persons and property, is in addition to its liability under the doctrine of Respondeat Superior. See, *Sheffer v. Carolina Forge Company, LLC*, 2013 OK 48, §17. *

21. As a direct and proximate result of Defendants Affordable Pools and/or Kirk Flowers' negligent entrustment, negligent hiring, negligent training, negligent supervision and/or negligent retention of the Defendant Hattler, Plaintiff suffered severe and permanent personal injuries and other damages as previously set forth herein.

22. That the acts and/or omissions of the Defendants Affordable Pools and/or Kirk

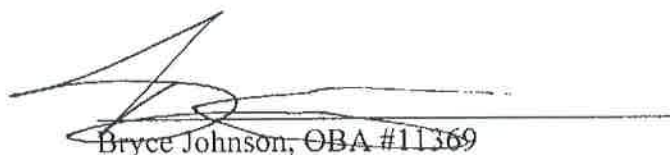
Flowers in negligently entrusting, negligently hiring, negligently training, negligently supervising and/or negligently training, and/or supervising drivers such as Defendant Hattler are such as to show gross negligence and reckless disregard for the safety of others and, therefore, punitive damages are appropriate directly against these Defendants.

23. The acts and/or omissions of the Defendants are such as to rise to the level of gross negligence and/or show a reckless disregard for the safety of others. Therefore, punitive damages are appropriate against Defendants.

24. That the foregoing acts and/or omissions of the Defendants taken collectively and/or individually, were the direct and proximate cause of the injuries and damages sustained by the Plaintiffs as previously set forth herein.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff, for her negligence and/or gross negligence and reckless disregard claims, prays for judgment for her compensatory damages against the Defendants and each of them for an amount in excess of \$75,000.00, plus interest cost and for punitive damages against Defendants Affordable Pools, Kirk Flowers and Hattler for an amount in excess of \$75,000.00 together with interest costs, attorneys' fees and whatever further relief this Court deems just, equitable and necessary.

Respectfully submitted,



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Attorneys' Lien Claimed